

AMENDED IN SENATE AUGUST 29, 2003

AMENDED IN SENATE AUGUST 18, 2003

AMENDED IN SENATE JULY 3, 2003

AMENDED IN SENATE JUNE 16, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 747

Introduced by Assembly Members Matthews and La Malfa

February 19, 2003

An act to amend ~~Section 19805, and to add Sections 14105.49, 14105.50, and 14105.51 to, Sections 14105.48 and 19805 of the~~ Welfare and Institutions Code, relating to human services.

LEGISLATIVE COUNSEL'S DIGEST

AB 747, as amended, Matthews. Human ~~Services~~ *services*: Medi-Cal: durable medical equipment and hearing aids: independent living centers.

(1) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

Under existing law, durable medical equipment ~~and medical supplies are covered benefits~~ *is a covered benefit* under the Medi-Cal program, subject to utilization controls.

Under existing law, the department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of appliances, durable medical equipment, medical supplies, and other product-type health care services for the purpose of obtaining the most favorable prices to the state and to assure adequate quality of the product or service, with certain exceptions.

~~Existing law requires the department to establish a list of maximum allowable product costs (MAPC) for medical supplies.~~

~~This bill would require the department to establish a list of hearing aids and hearing aid accessories and determine the maximum allowable reimbursement product cost for each hearing aid product provided under the Medi-Cal program.~~

~~It would prohibit the maximum reimbursement rate for hearing aids and hearing aid accessories from exceeding the lesser of specified amounts.~~

~~This bill would also require *Existing law requires* the department to establish a list of covered services and maximum allowable reimbursement rates for durable medical equipment. It would provide that reimbursement for these items, of durable medical equipment, shall be the lesser of specified amounts. The bill would require the department to establish “capped rental” reimbursement for specific items, of durable medical equipment. It would require that items in this category be reimbursed on a monthly rental basis as prescribed.~~

~~*This bill would authorize the department to require providers of durable medical equipment to appeal Medicare denials for dually eligible beneficiaries as a condition of Medi-Cal payment.*~~

(2) Existing law requires the Department of Rehabilitation to provide assistance and funding to independent living centers, which are nonprofit entities that provide services to individuals with disabilities. Existing law provides a formula for the allocation of funds appropriated by the Legislature to independent living centers.

Existing law authorizes the department to provide a funding advance in specified amounts to independent living centers that comply with certain accounting criteria established by the department.

This bill would authorize the department to provide a similar funding advance to any contractor or grantee receiving funds pursuant to the provisions governing independent living centers. The bill would require any grantee of a funding advance also to meet reporting criteria established by the department.



Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Section 14105.49 is added to the Welfare and~~
2 ~~Institutions Code, to read:~~
3 ~~14105.49.—(a) (1) The department shall establish a list of~~
4 ~~hearing aids and hearing aid accessories and determine the~~
5 ~~maximum allowable product cost for each hearing aid product~~
6 ~~provided as a benefit under the Medi-Cal program.~~
7 ~~(2) The list established pursuant to paragraph (1) shall be~~
8 ~~published in provider manuals. Notwithstanding the rulemaking~~
9 ~~provisions of the Administrative Procedure Act (Chapter 3.5~~
10 ~~(commencing with Section 11340) of Part 1 of Division 3 of the~~
11 ~~Government Code), actions of the department under this section~~
12 ~~shall not be subject to the Administrative Procedure Act or to the~~
13 ~~review and approval of the Office of Administrative Law.~~
14 ~~(b) The maximum reimbursement rate for hearing aids and~~
15 ~~hearing aid accessories may not exceed the lesser of the following:~~
16 ~~(1) The billed amount.~~
17 ~~(2) The cost of the item, plus a percentage markup as~~
18 ~~determined by the department.~~
19 ~~(3) The rate established by the department's contracting~~
20 ~~program.~~
21 ~~SEC. 2.—Section 14105.50 is added to the Welfare and~~
22 ~~Institutions Code, to read:~~
23 ~~14105.50.—(a) The department shall establish a list of covered~~
24 ~~services and maximum allowable reimbursement rates for durable~~
25 ~~medical equipment, as defined in Section 51160 of Title 22 of the~~
26 ~~California Code of Regulations and the list shall be published in~~
27 ~~provider manuals. The list shall specify utilization controls to be~~
28 ~~applied to each type of durable medical equipment.~~
29 ~~(b) Reimbursement for durable medical equipment, except~~
30 ~~wheelchairs and wheelchair accessories, shall be the lesser of the~~
31 ~~following:~~
32 ~~(1) The amount billed pursuant to Section 51008.1 of Title 22~~
33 ~~of the California Code of Regulations.~~

~~(2) An amount that does not exceed 80 percent of the lowest maximum allowance for California established by the federal Medicare program for the same or similar item or service.~~

~~(3) The guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3, plus a markup to be established by the department.~~

~~(c) Reimbursement for wheelchairs and wheelchair accessories shall be the lesser of the following:~~

~~(1) The amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations.~~

~~(2) An amount that does not exceed 100 percent of the lowest maximum allowance for California established by the federal Medicare program for the same or similar item or service.~~

~~(3) The guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.~~

~~(d) Reimbursement for all durable medical equipment billed to the Medi-Cal program utilizing codes with no specified maximum allowable rate shall be the lesser of the following:~~

~~(1) The amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations.~~

~~(2) The guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.~~

~~(3) The actual acquisition cost plus a markup to be established by the department.~~

~~(4) Eighty percent of the manufacturer's suggested retail purchase price.~~

~~(5) A price established through targeted product-specific cost containment provisions developed with providers.~~

~~(e) Reimbursement for all durable medical equipment supplies and accessories billed to the Medi-Cal program shall be the lesser of either of the following:~~

~~(1) The amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations.~~

~~(2) The acquisition cost plus a 23 percent markup.~~

~~(f) Any regulation in Division 3 of Title 22 of the California Code of Regulations that contains provisions for reimbursement rates for durable medical equipment shall be amended or repealed effective for dates of service on or after January 1, 2004.~~

1 ~~(g) Notwithstanding Chapter 3.5 (commencing with Section~~
2 ~~11340) of Part 1 of Division 3 of the Government Code, actions~~
3 ~~under this section shall not be subject to the Administrative~~
4 ~~Procedure Act or to the review and approval of the Office of~~
5 ~~Administrative Law.~~

6 ~~(h) The department shall consult with interested parties and~~
7 ~~appropriate stakeholders in implementing this section with respect~~
8 ~~to all of the following:~~

- 9 ~~(1) Notifying provider representatives of the proposed change.~~
10 ~~(2) Scheduling at least one meeting to discuss the change.~~
11 ~~(3) Allowing for written input regarding the change.~~
12 ~~(4) Providing advance notice on the implementation and~~
13 ~~effective date of the change.~~

14 ~~SEC. 3. Section 14105.51 is added to the Welfare and~~
15 ~~Institutions Code, to read:~~

16 ~~14105.51. (a) The department shall establish “capped~~
17 ~~rental” reimbursement for specific items of durable medical~~
18 ~~equipment. Items in this category shall be reimbursed on a~~
19 ~~monthly rental basis not to exceed a period of continuous use of~~
20 ~~10 months. After 10 months of rental have been paid, the provider~~
21 ~~shall continue to provide the item without charge, except for~~
22 ~~maintenance and servicing fees, until the medical necessity ends~~
23 ~~or Medi-Cal coverage ceases. Monthly reimbursement for the~~
24 ~~rental of these specific items of durable medical equipment may~~
25 ~~not exceed 80 percent of the lowest maximum allowance for~~
26 ~~California established by the federal Medicare program for the~~
27 ~~same or similar item or service.~~

28 ~~(b) Notwithstanding Chapter 3.5 (commencing with Section~~
29 ~~11340) of Part 1 of Division 3 of the Government Code, actions~~
30 ~~under subdivision (a) shall not be subject to the rulemaking~~
31 ~~provisions of the Administrative Procedures Act or to the review~~
32 ~~and approval of the Office of Administrative Law.~~

33 ~~(c) The department shall consult with interested parties and~~
34 ~~appropriate stakeholders in determining which items will be~~
35 ~~subject to capped rental including doing all of the following:~~

- 36 ~~(1) Notifying provider representatives of the items that will be~~
37 ~~subject to capped rental.~~
38 ~~(2) Scheduling at least one meeting to discuss the items.~~
39 ~~(3) Allowing for written input regarding the items.~~

~~(4) Providing advance notice of the effective date on and after which the items will be subject to capped rental.~~

~~SEC. 4.—~~

SECTION 1. Section 14105.48 of the Welfare and Institutions Code is amended to read:

14105.48. (a) The department shall establish a list of covered services and maximum allowable reimbursement rates for durable medical equipment as defined in Section 51160 of Title 22 of the California Code of Regulations and the list shall be published in provider manuals. The list shall specify utilization controls to be applied to each type of durable medical equipment.

(b) Reimbursement for durable medical equipment, except wheelchairs and wheelchair accessories, shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) an amount that does not exceed 80 percent of the lowest maximum allowance for California established by the federal Medicare program for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.

(c) Reimbursement for wheelchairs and wheelchair accessories shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) an amount that does not exceed 100 percent of the lowest maximum allowance for California established by the federal Medicare program for the same or similar item or service, or (3) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department.

(d) Reimbursement for all durable medical equipment billed to the Medi-Cal program utilizing codes with no specified maximum allowable rate shall be the lesser of (1) the amount billed pursuant to Section 51008.1 of Title 22 of the California Code of Regulations, or (2) the guaranteed acquisition cost negotiated by means of the contracting process provided for pursuant to Section 14105.3 plus a percentage markup to be established by the department, or (3) the actual acquisition cost plus a markup to be established by the department, or (4) 80 percent of the manufacturer's suggested retail purchase price, or (5) a price

1 established through targeted product-specific cost containment
2 provisions developed with providers.

3 (e) Reimbursement for all durable medical equipment supplies
4 and accessories billed to the Medi-Cal program shall be the lesser
5 of (1) the amount billed pursuant to Section 51008.1 of Title 22 of
6 the California Code of Regulations, or (2) the acquisition cost plus
7 a 23 percent markup.

8 (f) Any regulation in Division 3 of Title 22 of the California
9 Code of Regulations that contains provisions for reimbursement
10 rates for durable medical equipment shall be amended or repealed
11 effective for dates of service on or after the date of the act adding
12 this section.

13 (g) Notwithstanding Chapter 3.5 (commencing with Section
14 11340) of Part 1 of Division 3 of the Government Code, actions
15 under this section shall not be subject to the Administrative
16 Procedure Act or to the review and approval of the Office of
17 Administrative Law.

18 (h) The department shall consult with interested parties and
19 appropriate stakeholders in implementing this section with respect
20 to all of the following:

21 (1) Notifying the provider representatives of the proposed
22 change.

23 (2) Scheduling at least one meeting to discuss the change.

24 (3) Allowing for written input regarding the change.

25 (4) Providing advance notice on the implementation and
26 effective date of the change.

27 (i) *The department may require providers of durable medical*
28 *equipment to appeal Medicare denials for dually eligible*
29 *beneficiaries as a condition of Medi-Cal payment.*

30 SEC. 2. Section 19805 of the Welfare and Institutions Code is
31 amended to read:

32 19805. (a) The Department of Rehabilitation may advance to
33 an independent living center an amount, each month, not in excess
34 of one-twelfth of the annual allocation for the independent living
35 center.

36 (b) The Department of Rehabilitation may advance to any
37 contractor or grantee receiving funds pursuant to this chapter an
38 amount, each month, not in excess of one-twelfth of the annual
39 allocation for the contractor or grantee.

- 1 (c) To obtain approval by the department for a funding advance
- 2 pursuant to this section, a grantee of a funding advance shall meet
- 3 accounting and reporting criteria established by the Department of
- 4 Rehabilitation.

